II

JURISDICTIONAL STATEMENT

Jurisdiction to grant the writ sought is vested in this court under Section 240 of the Judicial Code, as amended by Act of February 13, 1925 (Section 347, Title 28, U. S. C. A.).

The judgment of the Circuit Court of Appeals was rendered May 2, 1941 (R. 169). The petition for rehearing was overruled June 9, 1941, and on June 19, 1941, the Circuit Court of Appeals made an order granting petitioner a stay for 30 days thereafter for the purpose of filing this petition (R. 171). This petition is filed within 90 days after the original judgment of the Circuit Court of Appeals and hence less than 90 days after the overruling of the petition for new rehearing.

III

QUESTIONS PRESENTED AND REASONS RELIED ON FOR GRANTING WRIT

A. **Questions presented.** The decision which we ask this court to review raises three questions which are here involved:

(1) Is the requirement of Section 921, Title 33, that a suit to set aside a compensation award be brought *in the District where the "injury" occurred* a mere *venue* provision, which can be waived by the parties, or a *jurisdictional* provi- which cannot be waived?

(2) In a death case is the place where the injury occurred as used in Section 921 the place of *death* or the place where the *accident* causing death happened?

(3) Does the United States District Court for the Eastern District of Missouri sitting in admiralty have jurisdiction over the entire Mississippi River concurrent with the District Courts of the United States in Illinois?

(B) **Specific grounds:** Petitioner asks this court to assume jurisdiction, and to grant its writ herein for the following reasons:

(1) The Circuit Court of Appeals, in holding that the above mentioned requirement of Section 921 was not a venue requirement, but was one relating to jurisdiction which the parties could not waive, decided a particular question of Federal law which has not been heretofore directly decided by this court, but which because of its importance should be decided and settled. Said decision of the Circuit Court of Appeals, however, is in principle in conflict with the basic proposition of law in relation to jurisdiction and venue laid down in the prior controlling decisions of this court.

(2) That the interpretation of the words "district in which the injury occurred" contained in Section 921, Title 33, U. S. C. A., as applying to cases where benefits for death are claimed and in view of the definition of "injury" as including death contained in Section 902 (2) presents a vitally important question of Federal law which has not been, but should be, settled by this court. It is this: Since Section 902 (2) defines "injury" as meaning "accidental injury or death" "when used in this act," are we to understand the word "injury" in Section 921 (b) as being equivalent to death so that the latter section would authorize the bringing of a suit to review an award for death benefits in the district where the death occurred? The decision of this is necessarily involved in the judgment below especially if the view be taken that Section 921 is jurisdictional in nature.

(3) In deciding that the District Court in Missouri did not have concurrent jurisdiction with the District Court in Illinois over the whole Mississippi River the Circuit Court of Appeals passed upon an important question of Federal law not heretofore decided by this court, and which should

be settled by Your Honor's decision. The decision of the Circuit Court of Appeals on that point was based upon interpretation of a State statute in regard to the boundary of Ralls County, Missouri (R. S. Mo. 1939, Section 13583, set out in the appendix) and is probably in conflict with applicable local decisions, to-wit: the cases of *State* v. *Kurtz*, 317 Mo. 380, 295 S. W. 747; *Sanders* v. *Anchor Line*, 97 Mo. 261; *Swearingen* v. *The Steamboat Lynx*, 13 Mo. 519.

WHEREFORE your petitioner prays that a writ of certiorari be issued out of and under the seal of this court directed to the United States Circuit Court of Appeals for the Eighth Circuit and commanding said court to certify and send up to this court on a day designated a full and complete transcript of the record and all proceedings in this cause to the end that this cause may be reviewed and determined by this court as provided for in the statutes of the United States in such cases made and provided, and that the judgment of the said Circuit Court of Appeals be reversed and its opinion quashed, and the judgment of the District Court of the United States for the Northern Division of the Eastern District of Missouri be affirmed and reinstated, and for such other relief as in the premises to this Honorable Court may seem meet and proper, and so your petitioner will ever pray.

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